



STATE OF MICHIGAN  
DEPARTMENT OF EDUCATION  
LANSING



JENNIFER M. GRANHOLM  
GOVERNOR

MICHAEL P. FLANAGAN  
SUPERINTENDENT OF  
PUBLIC INSTRUCTION

March 6, 2008

**TO:** State Board of Education

**FROM:** Michael P. Flanagan, Chairperson 

**SUBJECT:** Legislative Update

**HOUSE ACTION**

**House Bill 4042 – Rep. Lemmons (D – Detroit)**

The House Education Committee reported a bill to phase-in raising the drop out age to 18. The phase-in is important for a number of reasons: 1) if the law is changed to suddenly raise the age without some lag time, there is no way, from a practical standpoint, to find the students between the ages of 16 and 18 who have dropped out already to bring them back; and 2) this will provide the education community with some time to ensure there are support services and programs in place to engage children at risk of dropping out and providing alternative education options.

This is a bill for which the State Board of Education has previously stated its support. Any contacts you can make to legislators, in the House especially, to support this legislation would be helpful.

**House Bill 4662 (H-2) – Rep. V. Smith (D-Detroit)**

The House Education Committee has begun work on this bill to lower the compulsory school attendance age to five, effectively mandating kindergarten. The most recent draft distributed also included language requiring that, beginning in 2011-2012, schools provide the same amount of instruction in kindergarten as they do in the other grades they offer (full-day kindergarten). It's my understanding that this bill may be reported from Committee as early as March 11<sup>th</sup>, 2008.

This is a bill for which the State Board of Education has previously stated its support. Any contacts you can make to legislators, in the House especially, to support this legislation would be helpful.

I recommend that contacts from the State Board of Education on these two bills (HBs 4042 and 4662) focus on members of the House Education Committee and House Leadership at this time.

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The following is a list of those legislators.

### **House Leadership:**

Speaker of the House Andy Dillon (D), District 17 - [andydillon@house.mi.gov](mailto:andydillon@house.mi.gov)

Majority Floor Leader (D), District 12 - [stevetobocman@house.mi.gov](mailto:stevetobocman@house.mi.gov)

Minority Leader Craig DeRoche (R), District 38 - [craigderoche@house.mi.gov](mailto:craigderoche@house.mi.gov)

### **House Education:**

Tim Melton (D), Committee Chair, 29th District

Mary Valentine (D), Majority Vice-Chair, 91st District

Kathy Angerer (D), 55th District

Terry L. Brown (D), 84th District

Barb Byrum (D), 67th District

Brenda Clack (D), 34th District

Marc R. Corriveau (D), 20th District

Robert Dean (D), 75th District

Hoon-Yung Hopgood (D), 22nd District

Steven Lindberg (D), 109th District

Andy Meisner (D), 27th District

Fred Miller (D), 31st District

Gino Polidori (D), 15th District

Bettie Cook Scott (D), 3rd District

John Moolenaar (R), Minority Vice-Chair, 98th District

Judy Emmons (R), 70th District

Jacob Hoogendyk (R), 61st District

Glenn Steil Jr. (R), 72nd District

Tom Pearce (R), 73rd District

Dave Hildenbrand (R), 86th District

Tonya Schuitmaker (R), 80th District

Marty Knollenberg (R), 41st District

Paul E. Opsommer (R), 93rd District

### **House Bills 4886 and 4902 – Reps. Clack (D – Flint) and Nofs (R – Battle Creek), respectively**

The House unanimously passed these bills that encourage schools that teach African History to focus the content on one of a list of African Kingdoms in the bills. As originally introduced, the bills required schools to provide those specific teachings, but given that a) local schools decide their own curriculum and b) it is the State Board of Education's role to adopt content standards, the House chose to change the bill to only that of an encouragement. This will maintain the local control and not step over into the role of the State Board. These bills are now in the Senate Education Committee.

### **SENATE ACTION**

The Senate is currently working on the Michigan Department of Education and the School Aid budgets. Previously, you received information about the Executive Recommendations for those bills. The Senate Subcommittee on K-12 Education is expected to report both bills on Tuesday, March 11<sup>th</sup>. From there, they are expected to be reported by the Senate Appropriations Committee and then passed by the full Senate prior to the Senate's spring break, which begins on April 1<sup>st</sup>.

Unfortunately, the Senate Fiscal Agency (SFA) just reported to the Senate that revenues are lower than expected. According to the SFA report, the School Aid fund has \$15 million less for FY 08 (current year) and \$135.4 million for FY 09, while General Fund/General Purpose revenues are reduced by \$119 million for FY 08 and \$114.2 million for FY 09. It is unclear at this point, how the Senate will resolve this – via cuts, revenues, reforms, one-time financing changes, etc.

The full SFA report can be found at:

<http://www.senate.michigan.gov/sfa/Publications/BudUpdates/0305sacpres.pdf>

Keep in mind that, so far, both sides of the aisle still want to have as little rancor as possible over the budget. The stresses from this revenue shortfall may change that.

**Senate Bill 1039 – Sen. Cassis (R – Novi)**

The Senate passed SB 1039 unanimously. The bill authorizes ISDs to develop early intervening model programs. The bill allows (not mandates) ISDs to use their Section 81 operating funds to create an early intervening model for grades K-3 designed to instruct teachers/staff on how to monitor pupil learning and to provide specific support or strategies as early as possible in order to reduce inappropriate referrals to special education. The bill is now awaiting action in House Education.

**Senate Bill 836 – Sen. Van Woerkom (R – Muskegon)**

The Senate unanimously passed SB 836. The bill allows a contiguous district to provide instruction at a nonpublic school site if the district where the nonpublic school is located does not agree to provide all or some of the instruction. The district where the nonpublic school is located must agree to provide some or all of the instruction by May 1 or, if the request is made after March 1, within 60 days after the nonpublic school makes the request. The portion of the instruction that the district has not agreed to provide may be provided by a district that is contiguous to the district in which the nonpublic school is located. This bill is now in the House Education Committee.

**BILLS SENT TO THE GOVERNOR**

**House Bill 4220 – Rep. Espinoza (D – Croswell)**

House Bill 4220, which would allow school board members to be volunteer coaches, was presented to the Governor. This bill overwhelmingly passed both chambers. In some small districts it may be difficult to fill coaching positions or supervisory positions for extracurricular activities, and this bill was created to try to alleviate that problem.

If you have any questions or concerns regarding these legislative issues, please contact Lisa Hansknecht at 517-335-4913, or at [hansknechtl@michigan.gov](mailto:hansknechtl@michigan.gov).



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PUBLIC INSTRUCTION

March 7, 2008

**MEMORANDUM**

To: State Board of Education

From: Michael P. Flanagan 

Subject: Update on Federal Issues

**HOUSE AND SENATE BUDGET COMMITTEES INCREASE EDUCATION MARKS**

Both the House and Senate Budget Committees came through on March 5 on their pledges to significantly boost the education funding levels in their budget proposals. The House panel added \$7.1 billion over President George W. Bush's FY 2009 budget request, and the Senate put forth \$5.7 billion over the President's level.

While all the implementing language was not available as this was being written, the documents that were provided indicated that the Senate committee in addition called for \$13 billion in education tax cuts, and in a new \$35 billion economic stimulus package a proposed \$2 billion Education Reserve Fund for school construction and the Higher Education Act reauthorization.

Under the federal Congressional budget system, the conference committee budget eventually agreed to by the House and Senate that emanates from these two documents provides a template for the appropriations process. Individual program appropriations levels are not necessarily adhered to, but overall function budgetary numbers set caps for the appropriators. Both chambers adhere to "pay go" rules that require offsets for additional or new program additions or add-ons to existing expenditures. What the budget process also provides is an overall view of the interest areas and preferences of Congress. It appears as though education programs and child health initiatives will both be winners in this year's deliberations. Please see Attachments A and B, summaries of the Senate and House Budget Resolutions as proposed by the respective chambers' budget committees.

**MEDICAID REGULATION ISSUES TAKE CENTER STAGE**

Michigan educators have fought a multi-year battle with the Center for Medicare and Medicaid Services (CMS) over the School-Based Services (SBS) Program. SBS is but a small piece of a much larger federal expenditure [Please see impact statement for

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Michigan in Congressman Henry Waxman's (D-California), Chairman of the House Committee on Oversight and Government Reform, report on "The Administration's Medicaid Regulations: Summaries of State Responses"], and as a result it has been difficult at times to get traction with advocacy efforts. Now, with several programs in the Medicaid spectrum emerging as the target of a large Administration regulatory package, many groups have stepped forward to assist in bringing the impact of the regulations to light. On February 28, the House and Senate leadership convened a meeting with education, health and disability groups to discuss moratoria for the regulations promulgated by CMS. Staff from a number of Congressional offices attended, including those of Congressman John D. Dingell, Chairman of the House Committee on Energy and Commerce, Congressman Rahm Emanuel (D-Illinois), Democratic Caucus Chair, Congressman Steny Hoyer (D-Maryland), House Majority Leader, Congresswoman Nancy Pelosi (D-California), House Speaker, Senator Max Baucus (D-Montana), Chairman of the Senate Finance Committee, and Senator John D. Rockefeller IV (D-West Virginia), a senior senator who holds several high ranking seats on influential committees.

An advocacy group supporting SBS has drawn as many as 75 education groups and large school district representatives to their meetings.

The primary goal of these groups is to seek a moratorium until 2009 on the implementation on the Administration's regulatory package. This also was a primary goal of the governors recently attending the National Governors' Association winter meeting in Washington.



# SUMMARY

## FY 2009 SENATE BUDGET RESOLUTION

PREPARED BY: MAJORITY STAFF, SENATE BUDGET COMMITTEE

March 5, 2007

### **FY 2009 Senate Budget Resolution: Strengthening the Economy, Making America Safer**

The Fiscal Year 2009 Senate Budget Resolution strengthens the economy, creates jobs, and makes America safer. It responds to the current economic slowdown by providing additional stimulus for the economy, tax relief for the middle class, and makes needed investments in energy, education, infrastructure, and health care.

The Democratic Budget reaches balance in 2012 and 2013, without raising taxes. It supports our troops, provides for our veterans, and protects the homeland.

#### **Responds to Economic Slowdown**

The Senate Budget Resolution provides a proactive response to the current economic slowdown by providing up to \$35 billion for additional stimulus. The Democratic budget gives Congress the opportunity to take additional action to help those most in need. Possible temporary action could include housing relief, extended Unemployment Insurance benefits, Food Stamps, and help with utility bills. Other options could include state fiscal relief and support for "ready-to-go" infrastructure projects.

#### **Invests for Future Economic Growth**

The Democratic budget creates the building blocks for future economic growth by making needed investments in:

Energy to reduce America's dependence on foreign energy;

Education to prepare the nation's workforce to compete in the global economy;

Infrastructure to increase productivity by repairing roads, bridges, transit, airports, and schools; and,

Health Care to improve the health of families and children.

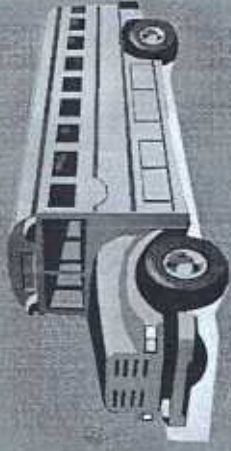
#### **Makes America Safer**

The Senate Budget Resolution matches the President's core defense budget and fully funds the President's request for additional war funding. In addition to supporting our troops, the Democratic budget ensures that veterans get the quality health care they deserve by providing \$3.2 billion more than the President's budget for veterans programs. The Budget Resolution protects the homeland and rejects the President's cuts in law enforcement, the COPS program, and first responders.



# **Budget Resolution Invests in Education**

**Generates economic growth and jobs, prepares workforce to compete in global economy, makes college more affordable, and improves student achievement**



- **\$13 B education tax cuts**
- **\$5.7 B over President's budget in discretionary funding for Department of Education and Head Start**
- **\$2 B Education Reserve Fund for school construction and Higher Ed reauthorization (5 years)**



# Budget Resolution Invests in Infrastructure

Repairs crumbling roads, bridges, transit, airports, and schools



- Reserve fund to allow for major infrastructure legislation
- Provides \$3.9 B more than President for key discretionary transportation accounts in 2009
- In addition, provides another \$6.5 B to:
  - Fully fund Highways
  - Fully fund Transit
  - Increase funding for Airport Improvement Program
  - Fund “ready-to-go” infrastructure projects
- Fixes the Highway Trust Fund shortfall





John Speier,  
Chairman

U.S. HOUSE OF REPRESENTATIVES

# COMMITTEE ON THE BUDGET

207 Cannon House Office Building, Washington, DC 20515 (202) 226-7200 ★ [www.budget.house.gov](http://www.budget.house.gov)

March 5, 2008

## KEY FEATURES OF THE CHAIRMAN'S MARK OF THE FY 2009 BUDGET RESOLUTION

### A Fiscally Responsible Budget that Funds Critical Priorities

#### Fiscal Responsibility

The budget is fiscally responsible, returning to balance in 2012. The budget resolution complies with the House pay-as-you-go rule that requires all mandatory spending and revenue provisions to be deficit-neutral. The budget resolution also provides reconciliation protection for a repair of the Alternative Minimum Tax that is fully paid for. The budget contains initiatives to crack down on wasteful spending, and its deficit-neutral reserve funds will ensure that new initiatives are offset by reductions in lower priority spending. The budget relies on realistic economic assumptions from the non-partisan Congressional Budget Office.

#### Rejecting the President's Harmful Cuts

The budget rejects the President's deep cuts affecting a wide range of services and constituencies, including the following:

- \$150 billion of Medicare cuts over five years and billions in cuts to Medicaid;
- more than \$18 billion over five years in new fees for veterans and military retirees;
- a six percent cut to the Centers for Disease Control and Prevention, as well as a 16 percent cut to the Health Resources and Services Administration (HRSA), which provides health care access to under-served populations;
- the elimination of several state and local law enforcement programs, including the State Criminal Alien Assistance Program, Byrne Grants, and COPS; and
- cutting the Environmental Protection Agency, in large part through cuts to grants that help protect public health and maintain environmental quality.

#### Rebuilding America's Future

This budget is another down payment to fulfill commitments we have made to the American people. The budget rejects the President's misguided budget, instead investing in proven programs that boost economic growth, create jobs, make America safer, promote fiscally responsible tax relief to millions of households, and help families struggling to make ends meet in an economic downturn.

#### Strengthens the Economy

- **Innovation** — Provides crucial funding for the Democratic innovation agenda and the America COMPETES act to enhance our competitive edge, increasing funding for math and science education and research.

- **Energy** — Increases funding for efficient and renewable energy programs, rejecting the President's cuts to research as well as weatherization assistance for lower-income families, and accommodates legislation to encourage the production of renewable energy alternatives, increased energy efficiency, investments in new energy and vehicle technologies, and training workers for "green collar" jobs.
- **Education** — Provides substantially more than the President for the education budget function, which also includes job training programs.
- **Infrastructure** — Invests in highways, water, and other infrastructure by providing sufficient funding as well as a reserve fund that can facilitate priority new initiatives in a deficit neutral manner.

### **Provides Tax Relief and Help for Struggling Families**

The budget rejects the President's policy of paying for tax cuts by adding to the debt burden of our children and grandchildren, and by imposing unacceptable cuts to programs, such as \$150 billion of Medicare cuts and more than \$18 billion over five years in new fees for veterans and military retirees.

- **Tax Relief** — Accommodates tax relief from the Alternative Minimum Tax for more than 20 million households, as well as middle-income tax cuts and other tax relief, so long as they comply with the pay-as-you-go rule.
- **Children's Health** — Accommodates a \$50 billion increase to expand children's health insurance to cover millions of uninsured children, in accordance with the pay-as-you-go rule.
- **Safety Net** — Strengthens safety net programs by providing needed funding for home heating assistance, the Social Services Block Grant, and housing aid – in contrast to the President's budget, which cuts funding for these programs.

### **Makes America Safer**

- **Defense** — Provides robust funding for national defense while shifting funding to target high priorities including cooperative threat reduction, nuclear nonproliferation efforts, and quality of life issues for the troops and their families.
- **Veterans** — Takes care of veterans by rejecting the President's proposed new fees and increasing health care funding well above the amount needed to maintain current services – enough to allow VA to treat 5.8 million patients in 2009, including 333,275 Iraq and Afghanistan war veterans.
- **Homeland Security** — Protects our homeland, rejecting the President's cuts to first responder programs – including Community Oriented Policing Services (COPS) and firefighter assistance grants – and providing more funding than the President's budget for the four budget functions that contain the bulk of non-DOD homeland security funding.

# **The Administration's Medicaid Regulations: Summaries of State Responses**

**March 3, 2008**

On January 16, 2008, the Committee on Oversight and Government Reform wrote to every State Medicaid Director requesting an analysis of the impact on their state of each of the seven Medicaid regulations issued by the Centers for Medicare & Medicaid Services (CMS). More specifically, the Committee requested "an estimate of the expected reduction in federal Medicaid funds to your state over each of the next five years and an estimate of the effect of this reduction on Medicaid applicants and beneficiaries in your state." As of February 29, 2008, the Committee had received responses from the Medicaid Directors of 43 states and the District of Columbia. The findings from these responses are set forth in the Committee Majority Staff report, *The Administration's Medicaid Regulations: State-by-State Impacts* (March 3, 2008).

This document supplements that report. It provides one-page summaries of the submission received from each of the responding states. For each of the seven Medicaid regulations, the summary presents the state Medicaid Director's estimate of the amount of federal funds that the state would lose as a result of the regulation in the first year and over the next five years. If the state Medicaid Director indicated that the regulation would have a fiscal impact but was not able to quantify the impact, the response was characterized as "Not specified." If the state Medicaid Director reported that the regulation would have no impact on the state, the response was characterized as "None."

Each summary also includes quotations from each state Medicaid Director's response that provides a brief snapshot of the Director's assessment of the impact of a particular regulation on beneficiaries or providers or on the Medicaid program. In many cases, in the interest of brevity, these quotations are excerpted from longer discussions. For a full statement of the impact, please refer to the original submission of each of the responding Directors posted on the Committee website ([www.oversight.house.gov](http://www.oversight.house.gov)). A list of the state Medicaid Directors who responded to the Committee request may be found in Appendix A. The states profiled are:

Alaska	Illinois	Missouri	Oregon
Arizona	Indiana	Montana	Pennsylvania
California	Iowa	Nevada	Rhode Island
Colorado	Kansas	New Hampshire	South Carolina
Connecticut	Kentucky	New Jersey	South Dakota
Delaware	Louisiana	New Mexico	Tennessee
District of Columbia	Maine	New York	Texas
Florida	Maryland	North Carolina	Utah
Georgia	Massachusetts	North Dakota	Virginia
Hawaii	Michigan	Ohio	Washington
Idaho	Minnesota	Oklahoma	Wisconsin



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## The Administration's Medicaid Regulations: State-By-State Impacts

On November 1, 2007, the Committee on Oversight and Government Reform held a hearing on regulations issued by the Centers for Medicare & Medicaid Services (CMS) that would make major, wide-ranging changes in federal Medicaid policy. In general, the seven regulations at issue represent unilateral actions by CMS neither directed nor authorized by the Congress. The Committee heard testimony from the principal author of the regulations, Dennis Smith, the Director of the Center for Medicaid and State Operations within CMS. According to the Administration, the regulations would reduce federal Medicaid payments to states by a total of more than \$15 billion over the next five years.

On January 16, 2008, the Committee wrote to each state Medicaid Director requesting a state-specific analysis of the impact of each of the regulations. The Committee received responses from 43 states and the District of Columbia, accounting for close to 95% of total Medicaid spending. This report analyzes these responses. It is the first state-specific assessment of the impact of the CMS regulations.

The report finds that the state estimates of the fiscal impacts of the regulatory changes are significantly higher than the \$15 billion impact projected by the Administration. According to the states who responded to the Committee, the regulations would reduce federal payments to them by \$49.7 billion over the next five years, more than three times the Administration's estimate. In the case of one regulation, the state estimates of lost federal funds are more than ten times the Administration's estimate.

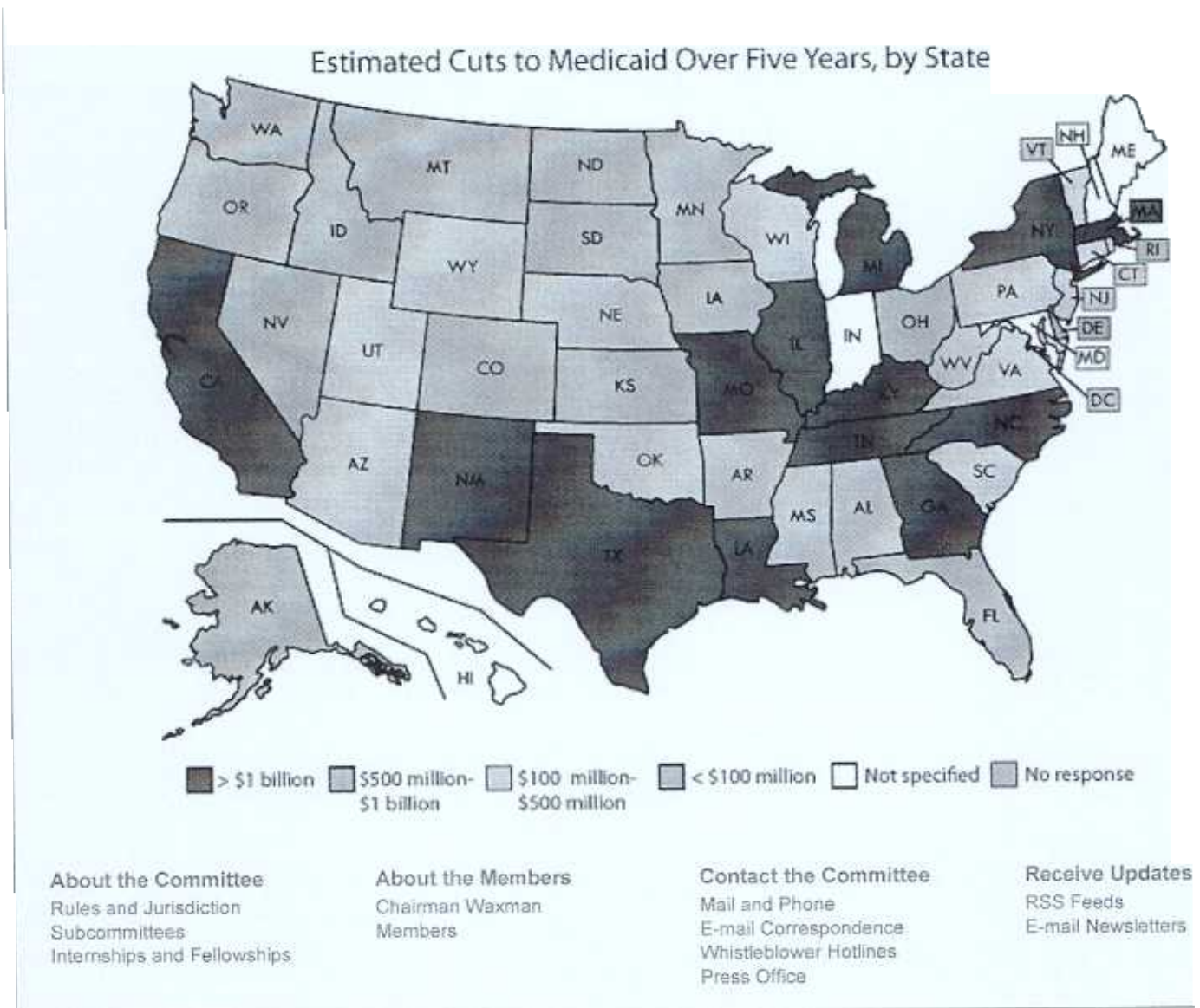


[Click here to download the full report.](#)



[Click here to download summaries of state responses.](#)

Move your mouse over a state to view its estimated Medicaid cuts, and click on a state for a more detailed look at the impact of the proposed regulations on that state.



# Michigan

## Cost limits for public providers (CMS 2258-FC)

**Loss of federal funds in FY2008:** \$225.9 million **Over 5 years:** \$1,254.4 million  
**Impact:** "All Medicaid beneficiaries could potentially be impacted by such a large reduction in federal support. Public hospitals and physician services, along with public health and mental health programs that receive Medicaid support, would be affected."

## Payment for graduate medical education (CMS 2279-P)

**Loss of federal funds in FY2008:** \$104.4 million **Over 5 years:** \$545.8 million  
**Impact:** "...it will reduce access to care for Medicaid beneficiaries who are served by major safety net providers that have relied on GME funding for these past 42 years."

## Payment for hospital outpatient services (CMS 2213-P)

**Loss of federal funds in 2008:** None **Over 5 years:** None  
**Impact:** "...the state does not anticipate any reduction in federal funds as a result."

## Provider taxes (CMS 2275-P)

**Loss of federal funds in FY 2008:** 10 million **Over 5 years:** 10 million  
**Impact:** "Although compliance with the new provider tax regulation is presumed, the language is sufficiently ambiguous to allow CMS flexibility to construe almost any provider tax as impermissible."

## Coverage of rehabilitative services (CMS 2261-P)

**Loss of federal funds in FY 2008:** \$321.6 million **Over 5 years:** \$1,729 million  
**Impact:** "It is particularly confounding and objectionable that this regulation harms children in a way that is discriminatory. Children who are delayed but who can achieve function are barred from receiving services because they technically cannot recover what they have lost."

## Payments for costs of school administrative and transportation services (CMS 2287-P)

**Loss of federal funds in FY2008:** \$22 million **Over 5 years:** \$116.8 million  
**Impact:** "If administrative outreach is eliminated, school-age children in Michigan will lose an ideal access site for linkage to medical, social, and educational programs."

## Targeted case management (CMS-2237-IFC)

**Loss of federal funds in FY2008:** \$48.3 million **Over 5 years:** \$254 million





# ISSUE BRIEF

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## School-Based Medicaid Reimbursement

### BACKGROUND

Under the *Medicare Catastrophic Coverage Act of 1988* (P.L. 100-360) school districts are allowed to receive payment from Medicaid for health services delivered to Medicaid-eligible children with disabilities who may need diagnostic, preventive, and rehabilitative services; speech, physical and occupational therapies; and transportation for such services. In addition, school districts may claim reimbursement for the administrative costs of providing school-based Medicaid services, such as outreach for enrollment purposes and coordination and/or monitoring of medical care.

Nationwide, it is estimated that Medicaid expenditures for school-based services totaled about \$2.9 billion in FY 2005. Roughly \$2.1 billion of these expenditures were for direct services in schools (including transportation) and \$834 million was spent for school-based administrative activities.<sup>1</sup>

### RECENT ADMINISTRATIVE ACTION

The President's FY 2008 budget proposal would, through administrative action by the U.S. Department of Health and Human Services, prohibit federal reimbursement for IDEA-related school-based administration and transportation costs for Medicaid-eligible students. The Office of Management and Budget (OMB) estimates that the proposed action will save the federal government (and therefore, cost school districts) approximately \$635 million in FY 2008 and \$3.65 billion over the next five years.

On August 31, 2007, the Centers for Medicare and Medicaid Services (CMS), which oversees the federal-state entitlement program, initiated a rulemaking process to implement these proposed changes. The rule (CMS-2287), which was published in the Federal Register on September 7, 2007 and *finalized* on December 28, 2007 eliminates federal reimbursement under the Medicaid program for the costs of administrative activities (such as Medicaid outreach, program planning, referral and monitoring) and

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<sup>1</sup> Source: CMS, Form-64. These data are reported by states on a voluntary basis and may be incomplete. Also, these data may include claims from prior periods. Some services can be claimed as either administrative expenses or as a benefit (e.g., case management, transportation).

certain types of transportation based on a Secretarial finding that these activities are "not necessary for the proper and efficient administration of the State plan." As a result, schools will no longer be eligible to receive federal Medicaid payments for the administrative activities performed by school employees or contractors as well as for transporting disabled students from home to school and back.

NSBA submitted formal comments to the U.S. Department of Health and Human Services (HHS) opposing the rule. In its statement, NSBA argued that the loss of federal reimbursement for administrative and transportation services would have a devastating impact on schools' ability to provide needed services to Medicaid-eligible children as well as a significant financial impact on local districts. NSBA opposes the rule on the grounds that it: 1) contradicts current law 2) exceeds Secretarial authority, and 3) discriminates against schools.

## **RECENT LEGISLATIVE ACTION**

In anticipation of this administrative action, Senator Kennedy (D-MA) and Representative Dingell (D-MI-15) introduced legislation (S. 578, H.R. 1017) in February 2007 that would prohibit CMS from limiting school districts' authority to claim reimbursement for administration and transportation expenses and set forward clear guidelines for providing and receiving reimbursement for Medicaid-eligible services.

The *Protecting Children's Health in Schools Act of 2007*, (S. 578, H.R. 1017) would:

- Set forth payment requirements for items, services, and administrative expenses covered under the Medicaid State plan in an educational program or setting,
- Clarify that the Health and Human Services Secretary may not deny federal matching payments for administrative, enrollment, and outreach activities,
- Allow for federal matching payments to include services to disabled children under Section 504 of the Rehabilitation Act of 1973, and
- Require the state to provide the full federal matching payments to the local educational entity if the entity incurred the full expenditure (provides an exception for state school board associations' to retain a portion of the reimbursement for costs that they incurred in connection with the collection and submission of claims on behalf of schools districts).

The legislation has been referred to the House Energy and Commerce Committee and the Senate Finance Committee, but has not seen any action.

In order to obtain a temporary fix to the problem, language was included in both State Children's Health Insurance Program (S-CHIP) reauthorization bills that Congress passed this fall to impose a moratorium on CMS from implementing any cuts to school-based Medicaid claims. However, President Bush vetoed both of these bills citing excessive expansion of the program, and Congress has been unable to override his veto.

As a final effort, language was included in the *Medicare, Medicaid and SCHIP Extension Act of 2007*, to delay the U.S. Department of Health and Human Services from implementing cuts to school-based administrative and transportation services for six-months, effectively guaranteeing that the finalized rule will not be implemented until the 2008-2009 school year. President Bush signed the legislation on December 29, 2007.

## **NSBA POSITION**

NSBA believes that schools play a key role in identifying children for Medicaid reimbursement and connecting them to needed services in schools and the community and supports efforts to block CMS from prohibiting school districts from claiming federal reimbursement for these services.

The loss of administrative and transportation reimbursement would hurt school districts' efforts to provide needed health services, resulting in eligible children not being identified and/or receiving these services in a timely manner. Additionally, the loss of funding could impact students in regular education programs since Medicaid reimbursement affects school districts' bottom line.

*For additional information, please contact Chrisanne Gayl, director of federal programs at the National School Boards Association at 703-838-6763, or by e-mail, [cgayl@nsba.org](mailto:cgayl@nsba.org).*

**February 2008**